

Horace LEE DAVIS

Name

48510-177

Prison Identification/Booking No.

M LFP Springfield
P.O. BOX 4000 Springfield, MO 65801

ADDRESS or PLACE OF CONFINEMENT

Note: If represented by an attorney; his name, address
& telephone number.

Note: It is your responsibility to notify the Clerk of
Court in writing of any change of address.

16-3409-CV-S-RK-p 121

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

Horace LEE DAVIS

FULL NAME (Include name under which you were convicted)

Petitioner,

CASE No. _____

To be supplied by the Clerk of the United States District Court

CASE No. 4:14-CR-167-A (01)
Criminal case under which sentence was imposed.

v.

LINDA SANDERS

NAME OF WARDEN, (or other authorized person having
custody of petitioner)

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL CUSTODY
(28 U.S.C § 2241)

INSTRUCTIONS -READ CAREFULLY

This petition shall be legibly handwritten or typewritten, signed by
the petitioner, under penalty of perjury. You must set forth
CONCISELY the answer to each question in the proper space on
the form. Any false statement of a material fact may serve as the
basis for prosecution and conviction for perjury.

You must not attach separate pages to this petition except that ONE
separate additional page is permitted in answering Question No.9.

Upon receipt of a fee of \$5.00 your petition will be filed if it is in proper order.

If you are seeking leave to proceed *in forma pauperis* (without paying the \$5.00 filing fee and other court costs), then you must also execute the declaration on the last page, setting forth information which establishes your inability to pay the fees and costs of the proceedings or to give security therefor. If you wish to proceed in forma pauperis, you must have an authorized officer at the penal institution complete the certificate as to the amount of money and securities on deposit to your credit in any account in the institution.

When the petition is completed, the original and 3 copies, must be mailed to the Clerk of the United States District Court for the Western District of Missouri, Charles Evans Whittaker United States Courthouse, 400 E. 9th Street, Kansas City, Missouri 64106, ATTENTION: Prisoner Pro Se Office.

Only one sentence, conviction or parole matter may be challenged in a single petition. If you challenge more than one, you must do so by separate petitions.

Petitions which do not conform to these instructions will be returned with a notation as to the deficiency.

PLEASE COMPLETE THE FOLLOWING: (check appropriate number)

This petition concerns:

1. _____ a conviction.
2. ☒ _____ a sentence.
3. _____ jail or prison conditions.
4. _____ prison discipline.
5. _____ a parole problem.
6. _____ other.

PETITION

1. Place of detention MCFP Springfield P.O. BOX 4000 Springfield, MO 65801
2. Name and location of court which imposed sentence Northern District of Texas
Fort Worth Division 501 W 10th St. Rm 310 Fort Worth, Texas 76102
3. The indictment number or numbers (if known) upon which, and the offense or offenses for which, sentence was imposed:
 - (a) ONE COUNT indictment
 - (b) 21 U.S.C. 841 (a)(1) and (b)(1)(c)
 - (c) Possession with intent to Distribute a controlled substance
4. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 1-16-2015
 - (b) 115 months
 - (c) _____
5. Check whether a finding of guilty was made:
 - (a) After a plea of guilty ✓
 - (b) After a plea of not guilty _____
 - (c) After a plea of nolo contendere _____
6. If you were found guilty after a plea of not guilty, check whether that finding was made by :
 - (a) a jury _____
 - (b) a judge without a jury _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
() YES (☒) NO
8. If you did appeal, give the following information for each appeal:
 - a. (1) Name of court NA
 - (2) Result NA
 - (3) Date of result NA
 - (4) Citation or number of opinion NA
 - (5) Grounds raised (list each)

- (a) N/A
- (b) N/A
- (c) N/A
- (d) N/A
- b. (1) Name of court N/A
- (2) Result N/A
- (3) Date of result N/A
- (4) Citation or number of opinion N/A
- (5) Grounds raised (list each)
- (a) N/A
- (b) N/A
- (c) N/A
- (d) N/A

CAUTION: If you are attacking a sentence imposed under a federal judgment, you must first file a direct appeal or motion under 28 U.S.C. § 2255 in the federal court which entered the judgment.

9. State **CONCISELY** every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, attach a **SINGLE** page only behind this page.

CAUTION: If you fail to set forth all grounds in this petition, you may be barred from presenting additional ground at a later date.

a. Ground one IN Light OF U.S. COURT OF APPEAL IN THE FIFTH Circuit,
Delivery OF A controlled substance is Not Qualifying Predicate
For Career Offender Purpose
 Supporting FACTS (tell your story BRIEFLY without citing cases or law).

CAUTION: You must state facts not conclusions in support of your grounds. A rule of thumb to follow is - who did exactly what to violate your rights at what time and place.

My Prior Felony convictions OF a controlled substance
offence may it be For Distributions, Sales/Delivery
OF a controlled substance - That Prior conviction
CANNOT serve as a predicate offense under
the Career Offender Guideline Provision,
which on United States v- Hinkle, 2016 WL
4254372 (5th cir. 2016)

b. Ground Two (ACCA) is UNconstitutionally void FOR Vagueness IN light OF JOHNSON-VS-US SUPRE

Supporting FACTS (Tell your story BRIEFLY without citing cases or law).

Prior "BAD Acts" can NO longer Be APPLIED to subject you to an enhanced career offender guideline 4B1.1

c. Ground Three

None

Supporting FACTS (Tell your story BRIEFLY without citing cases or law).

NA

d. Ground Four

None

Supporting FACTS (Tell you story BRIEFLY without citing cases or law).

10. Have you filed previous petitions for habeas corpus, motions under Section 2255 of Title 28, United States Code, or any other applications, petitions or motions with respect to this conviction?

(☒) Yes () No

11. If your answer to Question No. 10 was yes, give the following information:

a. (1) Name of Court U.S. District Court of the Northern District of Texas Fort Worth, TX

(2) Nature of proceeding 28 U.S.C. 2255

(3) Grounds raised ACCA Violation in Light of The Supreme Court Ruling in Johnson - vs - US, 135 S.Ct 2551 (2015) "Residual Clause" is Unconstitutionally Vague.

(4) Result Time Barred, Pursuant to Rule 22 (b)

(5) Date of result July 20, 2016

(6) Citation or number of any written opinions or orders entered pursuant to each disposition.

CASE # 4:16-CV-686-A

b. (1) Name of Court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

(4) Result _____

(5) Date of result _____

(6) Citation or number of any written opinions or orders entered pursuant to each disposition.

12. If you did not file a motion under Section 2255 of Title 27\8, United States Code, or if you filed such a motion and it was denied, state why your remedy by way of such motion is inadequate or ineffective to test the legality of your detention:

N/A

13. Are you presently represented by counsel? () Yes (☒) No

If so, name, address and telephone number _____

Case name and court _____

14. If you are seeking leave to proceed in forma pauperis, have you completed the declaration setting forth the required information?

() Yes (☒) No

WHEREFORE, petitioner prays that the court grant petitioner relief to which he may be entitled in this proceeding,

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on

9-16-2016

(Date)

Howie Lee Davis

Signature of Petitioner

HORACE DAVIS 48510-177
McFP
P.O. Box 4000
Springfield, MO 65801-4000

RECEIVED
SEP 27 11 00 AM '16
U.S. DIST. COURT
FBI - ST. LOUIS
FBI - ST. LOUIS



U.S. POSTAGE
\$1.99
FCM LG EN
75080
Date of Sale
09/22/16
06 2500
808336964

Attention: Prisoner Pro & Office.

Clerk of The
United States District Court
For the Western District of Missouri
CHARLES E VALLS Whitaker
United States Courthouse
400 E 9th St. Kansas City, MO 64106

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES